IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

Crl.MC.No. 4100 of 2006()

(C.P. NO.120/06 OF THE COURT OF THE JFCM, MATTANUR)

PETITIONERS:

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1. S. MUNAS, S/O. PATHUMMA,
SAIDUMMADATH HOUSE,
THOTTINTAVIDA,
CHAVASSERY AMSOM,
ULIYIL.

2. KELOTH ABDUL MUNEER,
S/O. KADERKUTTY,
THAZHE MATTREKKAL HOUSE,
CHAVASSERY AMSOM,
NARAYAM PARA.

3. VANIYEDATH SHAMSUDHEEN,
S/O. MOOSA, KUNNUMMAL HOUSE,
PAZHASSI AMSOM,
KAYANI.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

STATE OF KERALA,
THROUGH THE SUB INSPECTOR OF POLICE,
MATTANUR POLICE STATION,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 4100 OF 2006

Dated this the 21st day of December, 2006

ORDER

The petitioners are accused 13, 20 and 10 respectively in a prosecution, inter alia, under the provisions of the Explosive Substances Act. The offence is triable by a Court of Session. Committal proceedings has been registered and summons has been issued to the petitioners. The petitioners have been directed to appear before the learned Magistrate on 27/12/2006. The petitioners are willing to appear before the learned Magistrate. There was no arrest and release on bail during the crime stage. The petitioners are willing to appear before the learned Magistrate on 27/12/2006; but they apprehend that when they appear before the learned Magistrate, they may not be released on bail by the learned Magistrate, as the offence is triable exclusively by a Court of Session. The learned counsel for the petitioners submits that in spite of the decisions reported in **Sukumari v. State of Kerala (**2002 (1) KLT 22) and **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339), the learned

Magistrate may not consider the petitioners' applications for bail on merits, in accordance with law and expeditiously. They may not be released on bail on the ground that the offence is triable exclusively by a Court of Session, submits the learned counsel for the petitioners.

2. I find absolutely no merit in the apprehension. The fact that the learned Magistrate has chosen to issue summons and not warrant is indicative of the application of mind by the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applications for regular bail on merits, in accordance with law and expeditiously. Needless to say that the learned Magistrate must consider the application for bail in the light of the decisions referred above. Appropriate decision on merits must be taken by the learned Magistrate. No special or specific directions appear to be necessary. Every court must do the same.

3. In the result, this Crl.M.C. is dismissed with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in

accordance with law, expeditiously and in the light of the decisions referred above – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge